United Nations A/59/307

General Assembly

Distr.: General
30 August 2004

Original: English

Fifty-ninth session
Item 26 of the provisional agenda*
The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Report of the Secretary-General**

Summary

The United Nations Verification Mission in Guatemala (MINUGUA) is slated to close in December 2004. This is its final report on implementation of the 1996 peace agreements. The report indicates that Guatemala has made significant progress and laid a firmer foundation on which to construct a better future. Yet serious problems persist whose resolution will require the dedication of all Guatemalans. The United Nations system will continue to accompany Guatemala as a more just, equitable and peaceful society is built.

* A/59/150.

** The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

04-47248 (E) 240904

I. Introduction

1. The present report is the ninth and final report of the Secretary-General on implementation of the Guatemalan peace agreements. In addition to summarizing political developments during the past year, it aims to assess progress in consolidating the peace and building the better society envisaged in the agreements. This evaluation is being delivered at a critical juncture for Guatemala. The third democratically elected Government to hold office since the signing of the peace is in its first year and the United Nations Verification Mission in Guatemala (MINUGUA) is preparing to close after 10 years in which its presence has been a crucial support to the implementation of the accords.

2. The departure of MINUGUA at the end of 2004 will mark the end of United Nations verification and the beginning of a new and necessary phase of the peace process, one in which national actors assume full responsibility for monitoring and promoting peace accords implementation. In anticipation of that day, MINUGUA has been engaged in a two-year phase-down of operations and in carrying out a transition strategy designed to build national capacity to promote the goals of the peace accords. The efforts are directed at key State institutions, such as the Office of the Human Rights Ombudsman, and at civil society organizations likely to remain engaged in peace-building efforts in the future.

3. The centrepiece of the transition effort during 2004 has been the National Transition Volunteers Programme, through which 60 young Guatemalan professionals, mostly indigenous, have gained valuable experience as verifiers and promoters of the peace accords. The strategy has also sought to guarantee follow-through on peace accords priorities by the United Nations system in Guatemala, including the Office of the United Nations High Commissioner for Human Rights, which reached an agreement with the Government of Guatemala to establish an in-country office that would provide observation and technical assistance following the exit of MINUGUA.

4. MINUGUA has also used this final period to reinforce the peace agenda in the emerging policies of the new authorities who took office in January 2004. The Mission produced a comprehensive set of policy recommendations and has reviewed them with senior government officials, governors, mayors, legislators, justice officials and leaders in civil society. During his visit to Guatemala in May 2004, the Under-Secretary-General for Political Affairs, Kieran Prendergast, underscored that the peace accords should remain Guatemala's basic blueprint for development.

5. The combined impact of MINUGUA efforts during this final year should be to help place implementation on the most solid footing possible as the Mission departs. A more detailed description of the Mission's closure and transition efforts will be provided later in the year in the end-of-Mission report requested by the General Assembly in its resolution granting MINUGUA a final one-year extension through 2004 (resolution 58/238).

II. Political context

6. The political environment has improved considerably since my last report (A/58/267), issued amid a tense electoral campaign that sorely tested Guatemala's democracy. The candidacy of former military ruler Efraín Ríos Montt had further

divided a country already polarized over the administration of President Alfonso Portillo, whose term was chequered by corruption allegations, weakened rule of law and stagnation in important areas of the peace process. The decision of the Constitutional Court to permit Ríos Montt's candidacy — and mob violence by the former general's supporters in July 2003 — raised fears that the elections would be subverted by fraud and intimidation.

7. The result was just the opposite. Guatemalans voted peacefully in two rounds of nationally and internationally observed elections, choosing as their President former Guatemala City mayor Oscar Berger and also electing new legislators and mayors. The defeat of Ríos Montt, under whose 1982-1983 rule the army committed some of the worst atrocities of the conflict, was a sign that Guatemalans were rejecting the past and looking towards the future. The campaign also reinforced the peace accords on the national agenda, as all of the leading political parties and candidates signed declarations pledging their support for implementation. On 29 December 2003 — the day after the election and the seventh anniversary of the signing of the peace accords — President-elect Berger enthusiastically received a petition by more than 300 civil society organizations and leaders urging that the accords remain the guidepost for public policy under the new administration.

8. The orderly handover of power in January brought a sense of relief and renewed optimism after four years of conflict between the Government of President Portillo of the Frente Republicano Guatemalteco (FRG) and a broad-based opposition, including civil society groups, the private sector and news media. The change also created high expectations that will be hard to meet, considering the magnitude of the problems to be addressed and the political and financial constraints facing the new Administration. Congressional elections yielded no clear majority. A severe shortfall in State finances forced the Government initially to announce cutbacks and austerity plans. A stopgap tax package approved in June 2004 provided some temporary relief, but was insufficient to finance the sustained increases in public spending that will be needed to make major improvements in peace accord priority areas such as education, health care, public security and justice. The strong presence in the Cabinet of leaders from the traditionally conservative Guatemalan private sector led some to question whether the new Government would fulfil its promise to govern with social responsibility, in the interest of all.

9. The Government made several welcome public commitments to the peace accords and human rights during its first months in office. On 25 February, President Berger held a ceremony at the National Palace at which he symbolically "relaunched" the accords as Guatemala's national agenda, pledging to reinvigorate implementation with the support of a new National Peace Accords Commission composed of officials of the three branches of State, political party delegates and respected civic leaders. The Commission, however, got off to a slow start in defining its mission. The President used the same ceremony to issue a public apology, in the name of the State, for the atrocities committed during the conflict. In early July, the Government provided seed funding for a National Reparations Programme for the victims of human rights violations committed during the conflict. It also named Rosalina Tuyuc, a respected indigenous leader and victims' representative, to head the commission overseeing the programme. Indigenous leader and Nobel laureate Rigoberta Menchú accepted President Berger's invitation to collaborate in the ad honorem role of good-will ambassador for the peace accords.

10. The most substantial government actions came in the military realm, including dramatic army cuts completed in June 2004 that reduce force levels and the budget far beyond the requirements of the peace accords. The Government also continued to close outmoded counterinsurgency bases, presented a new human rights-based military doctrine developed in discussions with civil society groups and inaugurated a civilian Advisory Council on Security tasked with advising the President on national security matters. These steps, all taken in compliance with the peace accords, came just months after the former Administration, in one of its last actions, finally dismantled the Presidential General Staff (EMP), a guard unit that carried out political assassinations during the conflict and long served as a vehicle for military control over the presidency.

11. The months following the change in Administrations also saw aggressive action to investigate and punish former officials of the FRG Government and associates for corruption and other crimes. Although many Guatemalans welcomed these actions as breakthroughs against impunity and in restoring public confidence in Government, some concerns were also raised that justice was being politicized.

12. One of the few laws to be approved by the new Congress was an important reform to the Electoral and Political Parties law called for in the peace accords. The changes require Guatemala to implement a unified identity and voter registration document and to establish voting centres outside the major municipalities, which should increase participation by indigenous people.

13. Violent crime and insecurity continued to be the focus of public concern, drawing attention to the steady deterioration of the National Civilian Police (PNC). The Government responded by reinstating joint army-police patrols, urging greater community involvement and instituting a gun buy-back plan to reduce illegal firearms in circulation. As public pressure intensified for results against crime, President Berger appointed a new Interior Minister and National Civilian Police chief in July 2004. Civil society organizations and MINUGUA urged a more comprehensive effort to strengthen PNC and its academy and to purge the force of criminal elements. Rising numbers of homicides against women — police statistics show 383 killings in 2003 and 257 in the first half of 2004 — prompted the visit in February 2004 of Yakin Erturk, the United Nations Special Rapporteur on violence against women, its causes and consequences, and the creation of a police unit to investigate such cases.

14. The change in Administrations also brought with it a troubling increase in forced, sometimes violent, evictions of squatters, a trend that gave the impression of undue deference by the Government to the demands of landowners. Peasant groups mounted nationwide demonstrations and road blockades in June 2004 to demand land and rural development policies and to protest the evictions, which created a serious humanitarian problem for peasant families thrown off properties. The Government's promise to analyse the situation and review the legality of the evictions defused the crisis momentarily, but the underlying problems remain and the issue stands as a potential source of future tension.

III. Implementation of the peace accords, 1996 to 2004

15. With the signing on 29 December 1996 of the Agreement on a Firm and Lasting Peace, more than three decades of conflict came to an end and a far-

reaching project was launched to unite a fragmented society and transform a militarized State that had abused human rights massively during the conflict, perpetuated social inequalities and systematically excluded indigenous peoples, who comprise half or more of the population. The peace also signaled the successful conclusion of United Nations mediation in Central America's only remaining armed conflict and the assumption by the Organization of a new responsibility to verify the comprehensive peace settlement.

16. Implementation of the agreements has been a tough uphill struggle, plagued by obstacles and setbacks and the resistance of powerful groups that feel threatened by change. Successive Governments have sworn to carry out the accords and then shown inconsistent political will to do so. The same can be said of the other branches of State that share responsibility for implementation. During much of the period, progressive forces in Guatemala have shared with MINUGUA a sense of frustration about the pace of progress. Had the accords been implemented over the years with greater conviction and dedication, the country would be in a far better situation today.

17. At the same time it is clear that substantial progress has occurred. Guatemala is changing in many ways for the better and the peace accords have been the main source of ideas and inspiration. Thus, any balanced evaluation of the results of the past eight years should focus on achievements as well as shortcomings. It should take into account the complexity of the challenges undertaken, the relatively short time frame since the end of the conflict and some of the obstacles that have impeded implementation independently of political will.

18. To begin with, the Guatemalan peace accords are ambitious. The 13 agreements and more than 300 specific commitments contained therein constitute a broad and detailed blueprint for political, economic, social and cultural change. In that sense, the accords were more wide-ranging and complex than those that ended the conflict in neighbouring El Salvador four years earlier and served as an important reference point for the Guatemalan negotiations. Some of the issues were particularly difficult to resolve. For example, in promoting an end to discrimination against indigenous people, the accords struck the main fault line dividing Guatemalan society, a problem dating back to colonial times and likely requiring generations to overcome.

19. The first phase of the process went fairly smoothly; the ceasefire held, the rebels were demobilized and disarmed, the army reduced, a new police force created, civil defence patrols and military commissioners disbanded and refugees returned. Yet this period, largely completed within the first two years after the signing of the peace, was to be followed by a far more difficult phase — still in progress today — requiring deep structural changes, legal and institutional reforms and the development and financing of a wide array of policies and programmes to overcome the legacies of the conflict as well as its root causes. The primary responsibility for carrying out these reforms would fall on the same Guatemalan State — historically plagued by corruption, lacking in resources and without a stable or qualified civil service — whose very weaknesses were amply acknowledged in the accords.

20. Expectations were high. The peace accords were originally on a four-year timetable through the year 2000. That calendar was subsequently extended through 2004 when it became clear that implementation would be a longer-term process.

Today, most observers agree that the timetables were too demanding and that substantially more time will be necessary before the peace agreements are fully realized.

21. Another salient feature of the Guatemalan peace accords is the extensive opportunities they created for participation by civil society in the implementation process. Multiple commissions created under the agreements brought non-governmental representatives, popular organizations and indigenous leaders to the table with government officials in unprecedented consensus-building exercises that resulted in draft legislation or the design of new programmes. The result has been largely positive in making the exercise of Government more democratic and transparent. Too often, however, authorities did not act upon proposals developed through consensus with civic groups. Moreover, the capacity of civil society to participate effectively in shaping public policies under the accords has only developed over time and with the shedding of deep feelings of distrust towards the State that had developed during the conflict. The imperative on participation and consensus-building has at times slowed the implementation process, enabling the Government and other State institutions to evade their responsibilities and substitute dialogue for action.

22. The process was also affected by the lack of strong national constituencies supportive of the accords and capable of pressuring successive Governments to implement them. Although the negotiating process broadly involved organized civil society groups, the idea that the agreements represented a full national consensus was later questioned by some sectors of Guatemalan society — the private sector and some political parties included — that either opposed the accords or claimed not to have been sufficiently represented or consulted in the negotiating process. Despite its historic contributions, the Unidad Revolucionaria Nacional Guatemalteca (URNG) has not become a strong political force on the national level capable of exerting effective pressure for implementation. The general public remained uninformed about the accords, as successive Governments ignored commitments to publicize their content. These were among the ingredients that led to the biggest single political setback to the process, the defeat of a 1999 referendum on constitutional reforms mandated by the peace agreements.

23. In the absence of stronger national ownership, assistance and pressure from the international community — including MINUGUA — became critical in shoring up political will to comply with the agreements. Governments have seemed at times to respond more to the international community than to domestic constituencies. This was evident in the Consultative Group meetings of 2002 and 2003, in which advances on the peace agenda emerged largely from political dialogue between the Government and donors. Many of the new institutions and programmes developed under the peace agreements came to depend heavily on international financing instead of being fully assumed as part of the national budget. While strong international pressure and support helped to sustain attention to the peace agenda through difficult years, there is now both a need and an opportunity for Guatemalan national actors to be stronger motors of the process.

24. With these general considerations in mind, following is a more detailed examination of progress in the four substantive areas that have been the focus of MINUGUA verification: (i) human rights, the administration of justice and the fight against impunity; (ii) identity and rights of indigenous peoples; (iii) demilitarization

and the strengthening of civilian authority; and (iv) socio-economic aspects, the agrarian situation and gender issues.

A. Human rights, the administration of justice and the fight against impunity[1]

25. The peace accords promised an end to decades of State-sponsored political repression in Guatemala and the establishment of legal and institutional guarantees that human rights would be respected in the future — essentially through the dismantling of repressive structures and a comprehensive reform of the security and justice sectors which, during the armed conflict, had been corrupted and subordinated to the military. Under the terms of the Comprehensive Agreement on Human Rights, the Government pledged to respect civil and political rights, to strengthen the justice system and human rights institutions, to combat impunity and to develop compensation programmes for the victims of State-sponsored human rights violations during the conflict.

26. Eight years later and despite only limited success in consolidating the rule of law and overcoming impunity, the overall assessment of progress in human rights is positive. The human rights issues facing Guatemala today, worrisome as they are, are of a wholly different order than those of the past.

27. With the end of the conflict came an end to the State-sponsored policies of abuse and along with that, an immediate and enduring reduction in the level and severity of the violations. URNG definitively laid down its arms and at no time threatened to resume hostilities. The Guatemalan political system became more open and competitive, as seen in the conduct of democratic elections and in the free functioning of the news media, trends begun with the return to civilian rule in 1986 and reinforced since the signing of the accords. Key international human rights instruments have been ratified and human rights are now deeply ingrained in public discourse. There is a vocal and active non-governmental human rights community. Small gains have been registered against impunity, with several military officers convicted for human rights crimes in landmark cases in recent years.

28. The main challenge today is to consolidate the rule of law amid a surge in crime and manifold evidence that key institutional reform processes launched under the peace accords have lost momentum and in some cases gone backwards. Without a more solid legal and institutional framework for protection in place, the substantial gains in human rights described above will be undermined.

29. The problems persist despite the considerable efforts to reform and modernize the justice sector, carried out under the framework of the peace accords and with the support of international donors. Among the advances are the creation of a new civilian police force, an independent Public Prosecutor's Office and a Public Defender's Institute; a judicial career law which has improved the selection, training and evaluation of judges; improved technology and expansions in the physical infrastructure of the courts; improved access for indigenous people through the

[1] A more complete examination of the state of human rights and justice reform efforts since the signing of the peace in Guatemala can be found in the fourteenth report of MINUGUA on human rights (A/58/566).

hiring of bilingual staff and interpreters and the creation of five Justice Administration Centres in predominantly indigenous areas of the country.

30. These and other efforts have had little discernible impact, however, on the performance of the justice system. The vast majority of serious crimes still go insufficiently investigated and unpunished. Judicial impunity remains today the rule rather than the exception, which has contributed to a lack of public confidence in the justice system and the persistence of lynching in rural areas where justice is particularly weak. To varying degrees, all of the institutions of the Guatemalan justice system suffer from the same kinds of deficiencies that plagued their performance at the time of the signing of the peace accords — a lack of resources, insufficient presence in rural areas, inadequate training and career development for officials, corruption and a lack of coordination among them.

31. The 1999 report of the Historical Clarification Commission was a major step in documenting a past in which government security forces were found responsible for acts of genocide and the vast majority of the deaths of some 200,000 people in the conflict, mostly civilians. Yet Guatemala has largely had truth without justice and this has fostered bitterness and impeded national reconciliation. The convictions of former military officers in the 1990 killing of anthropologist Myrna Mack and the 1998 murder of Bishop Juan Gerardi were historic firsts made possible through extraordinarily persistent efforts by human rights defenders and Guatemalan justice officials, supported by the international community. Bu. attempts to investigate and prosecute security force members for atrocities committed during the conflict have been generally unsuccessful; those who try have been subject to threats, violence and years of judicial obstruction.

32. Human rights defenders operate far more freely than in the past, but continue to complain of harassment, albeit at lower levels than reported during the previous Administration. The National Human Rights Movement reported 18 incidents during the first half of 2004, mainly threats received by human rights organizations or others involved in judicial processes. It was the persistence of these kinds of incidents and the inability of the justice system to clarify their origin that inspired the former Government to reach agreement with the United Nations in December 2003 to create CICIACS (Commission for the Investigation of Illegal Groups and Clandestine Security Organizations), a special commission to investigate clandestine groups that are believed to be responsible. While supportive of the initiative, the new Government withdrew it from Congress in May 2004 amid constitutional objections put forth by some lawyers and legislators. The proposal was then submitted to the Constitutional Court, which declared several articles of the agreement unconstitutional. The Government said it remained committed to creating CICIACS and would propose modifications to the United Nations after holding consultations with human rights groups and other interested national actors.

33. Public security remains the single most important concern to Guatemalans, who are suffering under a surge in violent crime common to post-conflict societies. Guatemala's location in the drug trafficking corridor between South America and the United States of America makes it especially vulnerable to organized crime groups that have used corruption to infiltrate law enforcement institutions. The deplorable condition of the National Civilian Police has not only allowed crime to proliferate, but has also resulted in increasing and serious cases of abuse by

individual members of the police force, including kidnapping, social cleansing and torture.

34. Little was done in the first six months of the new Administration to address the structural problems in the justice system described above. However, the Government's willingness to accept the rulings of the Inter-American Court of Human Rights in the Myrna Mack killing and several other high-profile cases sent a positive message on human rights after many years spent challenging allegations of State responsibility in this arena. The naming of a well-regarded human rights activist, Frank Larue, to head the Presidential Commission on Human Rights (COPREDEH) has instilled new dynamism in this institution.

35. Reparations to victims of human rights abuses during the conflict, a key recommendation of the Historical Clarification Commission, will be a test of Guatemala's commitment to human rights. The new Government's support for the start-up activities of the National Reparations Programme is a good first step, but the programme still needs to be placed on firmer legal footing and to receive the full financing it requires. The treatment of human rights victims has stood in sharp contrast to that accorded former civil patrollers, who began in 2003 to receive cash payments for their services, irrespective of their involvement in human rights abuses during the conflict and the lack of any provision for compensation in the peace accords.

36. Another pressing necessity in human rights is to strengthen the Office of the Human Rights Ombudsman, whose constitutional mandate to promote and monitor human rights becomes all the more essential following the departure of MINUGUA. Serious budgetary constraints are limiting this institution's effectiveness, despite the higher public profile and activism taken since the naming in 2002 of a new Ombudsman from a slate of candidates proposed by non-governmental organizations.

37. The ongoing human rights problems described above (and in the subsequent section on identity and rights of indigenous peoples) merit continued international observation and assistance. The proposed office of the High Commissioner for Human Rights would make an important contribution in that regard.

B. Identity and rights of indigenous peoples

38. Guatemala acknowledged in the peace accords that it could not advance and prosper as a nation without reversing a deep legacy of discrimination against the Mayan, Xinca and Garifuna peoples who compose roughly half of the population, but who have been systematically excluded from opportunities. Adding to a history of oppression dating back to colonial times, the indigenous population bore the brunt of the armed conflict, as confirmed by the Historical Clarification Commission, which determined that 83 per cent of those killed were members of Mayan communities and that the army committed acts of genocide against indigenous groups. At the signing of the peace agreements, Guatemala's racial and cultural diversity was largely absent from the country's legal framework and political debate, State institutions and educational system. Rural areas where most of the indigenous population resides exhibited the worst social indicators and received the lowest levels of public investment. Indigenous women were doubly victimized, suffering racial and gender discrimination at the same time.

39. The main vehicle for changing this situation was the Agreement on Identity and Rights of Indigenous Peoples, signed in March 1995, which promised a multifaceted effort to fight legal and de facto racism and to construct a multicultural, multiethnic and multilingual State. The accord put a premium on consultation between the State and the indigenous population, creating unprecedented opportunities for the indigenous population to have input into the design of policies on its behalf. The signing of the agreement was a watershed moment. Never before had the Guatemalan State so fully and openly acknowledged the extent of the nation's racial, cultural and linguistic divide. Never before had it so clearly committed itself to bridging this chasm.

40. Eight years into the implementation process, progress in this area has been more formal than substantive. Important reforms have taken place on the legal and institutional levels in the creation of special programmes and agencies envisaged by the peace accords. Unprecedented debate is taking place about the previously taboo topics of racism and discrimination. Yet the everyday reality for most indigenous people has changed little. The indigenous population continues to face seen and unseen barriers to advancement, continues to occupy the lower echelons of work and society and continues to be vastly underrepresented in politics and public life. The worst social indicators continue to be registered in the predominantly indigenous areas of the countryside lacking in basic infrastructure or decent public services. The failure of the 1999 constitutional reform — that would have declared Guatemala a multicultural State — was a major disappointment for indigenous leaders and organizations that had participated enthusiastically in the implementation process until that point, including in the many joint commissions set up to develop policies and legislation on issues such as land, education reform, indigenous religion and political participation.

41. Even without a constitutional foundation in place, some notable steps have occurred to combat discrimination and to make the State more reflective of Guatemala's diversity. In the legal arena, one of the most important changes was the passage in 2002 of decentralization legislation that guarantees seats for indigenous representatives in Departmental Development Councils that are the key institutions for development policy and planning at the local level. Since the signing of the accords, Guatemala has passed legislation that for the first time establishes racial and other forms of discrimination as crimes in the Guatemalan penal code. Other relevant legal reforms have yet to be enacted, including legislation called for in the peace accords to criminalize sexual harassment, to establish a land registry system and an agrarian legal code and legally to recognize communally owned lands. The lack of a policy for stimulating rural development hurts principally the indigenous population.

42. Seeds of change are also evident within the State apparatus, where the peace process has injected a multicultural focus that was previously absent in institutions as diverse as the Supreme Court, National Civilian Police, Labour Ministry and Office of the Human Rights Ombudsman. School curriculums are being rewritten and the number of bilingual schools and teachers gradually expanded, as are the number of bilingual justice officials and court interpreters. The right to practise indigenous spirituality and wear customary dress has been upheld in a number of court cases in recent years. New institutions of protection exist, including the Defender's Office for Indigenous Women of the presidency, although severe budget limitations restrict the reach and impact of most of these special entities created

under the peace accords. A 2002 Law on Indigenous Languages, requiring certain State services to be provided in indigenous languages, sets an important precedent but has yet to be implemented. The Presidential Commission to Combat Discrimination and Racism Against Indigenous Peoples, created in 2003, was tasked with evaluating State actions in this field and making recommendations.

43. Another area of progress, albeit preliminary, is in access by the indigenous population to communications media from which it has traditionally been excluded. The most important step was taken in late 2003 with the granting of a State-owned television channel, formerly held by the military, to the Academy of Mayan Languages, a potentially powerful tool for disseminating indigenous culture and perspectives to the general population and promoting inter-ethnic dialogue. Still pending approval by the Congress are reforms in the Telecommunications Law that would grant indigenous groups access to radio frequencies.

C. Demilitarization and the strengthening of civilian authority

44. Demilitarizing the Guatemalan State was a central goal of the peace accords, given the country's history of coups d'état, the military's violent past and the bloated role it came to play in politics and society during the conflict. The Agreement on Strengthening Civilian Authority and the Role of the Military contemplated multiple measures to reverse this situation: army reductions; redeployment for external defence instead of internal security; democratic reforms in the military doctrine, educational and justice system; the dismantling of units implicated in human rights abuses; and the creation of a national civilian police force and civilian intelligence capabilities.

45. Implementation of these commitments has been a slow and difficult process, met with substantial resistance from the armed forces. The army's annual budget repeatedly exceeded the target of 0.66 per cent of gross domestic product (GDP) established in the peace accords and the military continued to play an excessive role in civilian affairs. It also refused to dismantle many of its former counterinsurgency bases in the interior of the country even though these installations had no use in the peacetime defence of Guatemala's borders. Today, however, eight years into the process, momentum has shifted back in the right direction. The Guatemalan army is being transformed as envisaged in the peace accords.

46. The biggest changes have taken place over the past year, thanks to greater political will on the part of the Government. The decision to trim the army from 27,000 to 15,500 troops and officers during 2004 and the placing of a new military budget ceiling at 0.33 per cent of GDP (half the amount allowed by the accords) are the boldest such actions taken in many years. Base closings have accelerated to the point that today's deployment is largely consistent with the external defence configuration called for in the peace accords. The elimination of the Presidential General Staff and the creation of a professional civilian presidential security force in its place closed a long chapter of military meddling in the affairs of the President. A civic service law passed in 2003 gives youths the option of performing social service instead of mandatory military service. Late last year, the army completed a new National Defense White Book, in close consultation with civil society organizations. A new human rights-based military doctrine was presented publicly in July 2004. That these changes are being made without any significant resistance

from within the armed forces is a strong indication of progress in subordinating the army to civilian authority.

47. More still needs to be done to institutionalize civilian control over the armed forces and intelligence structures. Laws on access to information and the declassification of documents are needed to prevent the military from using national security arguments to conceal basic information. Constitutional reforms should be revisited at the appropriate moment to limit potential army involvement in internal security and to introduce civilian defence ministers, as exist in most democracies. Changes to the army's doctrine need to be complemented with human rights-based changes in the military educational system. The peace accords also called for creating a civilian intelligence structure within the Ministry of the Interior and the passage of an Intelligence Framework Law that would establish supervision over intelligence bodies and regulate their functions.

48. The National Civilian Police began promisingly with the creation of the new force and its academy in 1997. It grew to 20,000 agents nationwide over the next three years and gained acceptance by the population. Since then, neglect, constant turnover in leadership and corruption have combined to set the force on a downward spiral. One of the root problems was the recycling into the force of a large number of former members of the corrupt and militarized police force that had been disbanded to make room for PNC. Today, lacking the minimal resources and infrastructure to do their jobs, many honest and hardworking members of the police are demoralized. Cases of criminality and abuse by police are on the rise.

49. Turning the situation around will require a serious effort, but there is no alternative if Guatemala wants to confront its security problems in the democratic framework of the peace accords. Key elements of a reform strategy have been identified, including the strengthening of the police academy to permit at least a doubling of the force, the purging of corrupt and abusive elements and a large increase in the PNC budget. Legislation to control illegal firearms and to regulate private security agencies are other important pending peace accords commitments that would contribute to a comprehensive public security strategy.

D. Socio-economic aspects, the agrarian situation, and gender issues

50. Extreme poverty and income inequality, skewed land distribution, State abandonment of the rural areas and the exclusion of the rural population from political and economic decisions were among the root causes of the armed conflict. In the Agreement on Socio-economic Issues and the Agrarian Situation, the Government pledged a wide range of remedies: increased social spending to expand and improve education, health care and other basic services; improved access for rural peasants to market-based land programmes as well as housing and agricultural credits; the establishment of a national rural development policy; and mechanisms for resolving widespread property disputes. These measures were to be financed by tax reforms to raise government revenues from 8 per cent to at least 12 per cent of GDP, complemented by steps towards decentralization that would give the population a greater voice in local development policy.

51. Eight years later, fragmented efforts have produced only limited results in the area of socio-economic reform. Despite increases in social spending and the creation of new institutions to address land issues, public services remain vastly inadequate,

rural development opportunities scarce and land conflicts persistent. Guatemala's income inequality still ranks among the worst in Latin America, according to a recent World Bank study. The percentage of Guatemalans currently living in poverty (57 per cent) has remained about the same and the numbers living in extreme poverty (21.5 per cent) have increased in the past few years, owing in part to the effects of a drop in world coffee prices.

52. One of the main limitations has been the chronic lack of government funds, linked to the refusal by economic elites to pay higher taxes to finance an expansion in State services benefiting primarily the poor. The result is that Guatemala has failed to increase its tax base to even the modest target of 12 per cent of GDP established in the peace accords. Hopes for a breakthrough came in 2000, with the signing of a "Fiscal Pact" between the three branches of State, business leaders and civil society, laying out a balanced plan for increasing revenues in a progressive fashion and ensuring transparent use of State resources. But after revenues reached a peak of 10.6 per cent in 2002, they have since slid backwards towards the ratio in place at the time of the signing of the peace accords.

53. Efforts to improve access to land and resolve land conflicts have also been insufficient. Fontierra, the government agency created under the peace accords to provide credit for land purchases, continues to receive less than its mandated budgetary allocation. Contierra, the presidential agency for analysing and mediating land disputes, has helped to resolve some high-profile cases but has never had the funding or institutional stability to play this role in a sustained manner on the national level.

54. Many key land-related legal reforms have not been carried out, most notably the commitment to create a national land registry considered essential for giving rural landholders legal security. International donors provided major assistance for pilot projects in this area but official promises to enact enabling legislation have repeatedly proven hollow. Nor have peace accords commitments been honoured to deal with other aspects of the land question: creating an agrarian legal code; reviewing the status of idle lands and lands illegally acquired during the armed conflict; and establishing legal security for land held communally by indigenous groups.

55. The peace accords included government commitments to revamp Guatemala's frail public health system with increased resources and focus greater attention on rural areas and a renewed emphasis on preventive strategies. The improvements have been modest thus far; Guatemala continues to exhibit some of the worst primary health indicators in Latin America. One very positive step was the creation of the Integrated Health Care System (SIAS), an innovative system employing services provided by non-governmental organizations in remote rural areas where there are no public health facilities. Vaccination programmes have also improved. But overall health expenditures never reached the peace accords-mandated target of 1.3 per cent of GDP. An estimated 20 per cent of the population is without public assistance or attention by SIAS. Infant mortality rates have dropped by about 20 per cent but remain above the goals established in the peace accords. The key challenges for the future are to expand basic coverage and to continue to emphasize preventive health, which officially constitutes half of current public expenditures. The health system should also more effectively integrate traditional indigenous medicine and hire more bilingual staff.

56. The peace accords also pointed to reform of the educational system as a cornerstone of progress. Significant efforts have been made in this regard, but much more needs to be done. The goal of a 50 per cent increase in education spending was reached in 2001, but the current budget remains entirely inadequate. Community-managed schools were introduced in areas not covered by the official system. Government programmes have succeeded in lowering illiteracy rates to 30 per cent, as called for in the peace accords. Bilingual education has gotten off the ground but is currently available to less than 10 per cent of indigenous children. An extended process of transforming the primary school curriculum to incorporate multicultural aspects and elements of the history of the armed conflict has concluded, but the changes have yet to be implemented in the schools owing to funding problems and opposition from teachers' groups.

57. The most important advance in this area of decentralization was the passage in 2002 of a trio of laws designed to increase citizen participation in local decision-making, particularly by previously excluded groups, such as women and the indigenous population. The changes included a reform of the Municipal Code and a revitalization of a multi-tiered structure of Development Councils. In many parts of the country, civil society groups are already beginning to play a more active role in influencing municipal and departmental policy-making through the provisions of the laws. The new Administration reinforced this positive trend by naming several governors from slates of candidates proposed by the Departmental Development Councils, a significant departure from the traditional use of these posts to reward political supporters.

58. Promoting gender equality and fighting discrimination against women are themes interwoven throughout the peace accords, with several of the most important provisions appearing in the Agreement on Socio-economic Issues and the Agrarian Situation. Domestic violence, unequal access to education and jobs and low levels of political participation among women are among the historical problems that persist despite significant efforts carried out in recent years to reform laws, create institutions and formulate public policies favouring women. A National Policy for the Promotion and Development of Guatemalan Women and an Equal Opportunities Plan (2001-2006) were produced in consultation with women's organizations. The new institutions include the National Women's Forum, the Presidential Secretariat for Women and the Office for the Defense of Indigenous Women, although funding shortages limit their reach and impact. Gender discrimination is now a crime in the Guatemalan Penal Code.

59. In the broadest sense, the process of demobilizing and reintegrating the URNG combatants into civilian life succeeded. The former insurgent group demobilized and disarmed under United Nations supervision, converted into a political party and has participated freely and without political reprisals in two national elections. Where the process has fallen short is in providing viable economic opportunities for the ex-combatants; a large number live in precarious conditions today in part owing to insufficient government assistance in providing land, housing, credit and other basic services. Future solutions should be provided mainly within the framework of national development policies aimed at helping the rural population in general, however some special attention is still required for this particular population. A similar situation confronts former refugees and internally displaced persons who returned without facing any systematic reprisals but did not receive the substantial government assistance promised in the peace accords.

IV. Observations

60. Eight years after embarking on the sweeping project of transformation contained in the peace accords, Guatemala has taken important strides forward and laid a firmer foundation on which it can continue to construct a better future. The list of accomplishments is impressive. Decades of bloody conflict and State-sponsored human rights violations have ended. Former insurgents have integrated into civilian life. The reins of Government alternate through peaceful elections and political debate is taking place within an open and democratic framework. The military has been reduced, brought under greater civilian control and is being steadily transformed within a peaceful democratic framework. Processes of institutional and policy reform have been initiated in all of the key areas touched on in the peace accords. Civil society organizations are amply consulted on matters of public policy.

61. This is hardly a time, however, for Guatemala to rest on its achievements. As the present report also attests, Guatemala still has before it very sizeable problems — some unique and others common to the region, where corruption, inequality, crime and weak rule of law are widespread. Regrettably, the deeper structural reforms envisaged in the peace accords have lagged far behind the advances in the political realm. A deep-seated legacy of racism has only begun to be debated and addressed in State policies. Vast social inequalities persist, constituting both a moral affront and an obstacle to development. These are not reasons to fear a return to armed conflict: Guatemalans do not want to relive the past and now have democratic channels through which to express discontent. But if left to fester, these problems could be ingredients for social conflict, stunted economic development and the corrosion of democratic governance in years ahead.

62. To the outside world, Guatemala's diversity is its wealth, discrimination its shame. Among the many ongoing challenges indicated in the present report, none is more important in the long term than fighting racism. A far more substantial effort should be launched to eradicate the barriers that persist, to provide equal opportunity for the indigenous population and to rebuild the State along multicultural lines. Educational campaigns are needed to sensitize the population as a whole. Bilingual education should be fully funded and expanded and more progress made in guaranteeing access to land and the expansion of public investments in basic services in rural areas.

63. Guatemala also needs a far more serious effort to consolidate the rule of law, in which reform plans are backed by major financial resources and political will to strengthen and modernize the major institutions that compose the criminal justice system. Crime and insecurity are among the greatest dangers to Guatemala's democracy and its economic future. In this context, halting the deterioration of the National Civilian Police has become a matter of national urgency. Involving the military in public security, even as a temporary measure, sidetracks the needed focus on strengthening the civilian security apparatus. Constant leadership changes at the helm of the police will also undermine reform efforts.

64. Even as it tries to leave the conflict behind, Guatemala still has an immense unpaid debt to the victims. Five years after the report of the Historical Clarification Commission, it is time to stop planning for reparations and instead to start delivering them to the tens of thousands of victims of the policies of human rights

abuse practised by the Guatemalan State during the conflict. Victims' organizations, the Government and the Congress should work quickly and in a spirit of unity and transparency to overcome the problems that have delayed implementation. Truth and reparations are part of the necessary response, but justice remains the missing element. Advances in investigating and punishing those responsible for acts of genocide and other crimes against humanity will remain a measure of Guatemala's progress in human rights.

65. Tax reform can no longer be postponed. Guatemala needs a functional State with sufficient resources to make major public investments in health, education, security and justice, and policies to help lift more than half of its citizens out of poverty. Increasing government revenues will require sacrifices and solidarity, particularly from those in the upper echelons of society, who need to look beyond their narrow interests to those of the nation as a whole.

66. Eight years after they were signed, the peace accords continue to shape the national debate and to provide sound and creative ideas for tackling the country's most pressing problems. Their ambitious nature has translated at times into a sense of frustration that progress seems always to fall short of the goal. But by setting a high bar, the Guatemalan peace accords should serve as a work programme that will remain valid for years to come.

67. The results of the last national elections have provided Guatemalans with a fresh opportunity to put confrontation behind them and to move forward with greater unity along the path laid out in the peace accords. The primary responsibility lies in the hands of the new Government, which needs to translate good intentions into results. Success will also require constructive cooperation from all of Guatemala's political parties, from organizations of civil society, from the news media and from the different branches of State that share direct responsibility for implementing the accords.

68. Guatemala made a valiant decision in signing pioneering peace agreements that seek to eradicate the profound causes of the conflict. Success in this endeavour will mean not only a better future for all Guatemalans, but also the defence of a larger principle that is now in the mainstream of peace-building efforts around the world today: that lasting peace can only be built on the basis of democracy, human rights, equality and social justice. That vision has only begun to be realized in Guatemala.

69. The time has come for MINUGUA to depart. Through its verification, good offices, technical cooperation and public information, MINUGUA has made countless contributions, helping over the years to remind Guatemalans of the commitments they have made and to keep the country on the path of peace. Today, the accords frame the plans of Government, political party agendas and the work of civil society organizations that have become influential advocates for implementation. The peace process has matured and Guatemala has consolidated its democratic framework to the point where it should be possible to address unresolved issues peacefully, through national mechanisms and more standard forms of international cooperation.

70. The departure of MINUGUA is neither the end of the peace process nor the end of the involvement of the United Nations in building a lasting peace in Guatemala. The United Nations system in Guatemala has an important role to play

in supporting efforts by the Government and civil society to carry out the peace accords. It is essential that the agencies, funds and programmes of the United Nations system remain guided by the accords, directing funding to priority areas still in need of attention. The United Nations Development Programme will continue to coordinate these efforts and use its annual Human Development Report for Guatemala to track progress in implementing the Agreement on Socio-economic Issues and the Agrarian Situation. The Office of the United Nations High Commissioner for Human Rights is poised to accompany Guatemalans as they continue to strengthen the rule of law and compliance with human rights.

71. Continued monitoring and support by the donor community will also be important in the period ahead. The contributions made over the years by the Group of Friends to the Peace Process and by the members of the Dialogue Group have been invaluable to the process. While expressing gratitude for those contributions and for the support for MINUGUA over the years, I would also make a plea for ongoing engagement in peace accords-related projects and political dialogue with the Guatemalan Government about peace accords implementation.